IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYERIN GRIFFIN,	§	
	§	No. 403, 2018
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	
	§	Cr. ID No. 1604000474 (N)
Plaintiff Below,	§	
Appellee.	§	

Submitted: January 8, 2020
Decided: March 9, 2020

Before, **VAUGHN**, **TRAYNOR**, and **MONTGOMERY-REEVES,** Justices.

O R D E R

This 9th day of March, 2020, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Tyerin Griffin, appeals his Superior Court criminal convictions in connection with the shooting death of Nathaniel Mangrum. This Court, having reviewed the record below and the briefs from both parties, holds the basis of Griffin's appeal to be without merit and affirms the judgment of the Superior Court.

(2) On February 22, 2018, after a trial in New Castle County, a jury convicted Griffin of Manslaughter—Extreme Emotional Distress ("Manslaughter EED"),

Reckless Endangering First Degree, and two counts of Possession of a Firearm During the Commission of a Felony.[1] Following a bench trial, the trial judge also found Griffin guilty of Possession of a Firearm by a Person Prohibited.[2] On August 2, 2018, Griffin timely filed a notice of appeal challenging his convictions.

(3) Griffin argues on appeal that the Superior Court's jury instructions were insufficient because the trial judge failed to instruct the jury on self-defense as to the Manslaughter EED charge.[3] Griffin challenges the jury instructions for the first time on appeal.[4]

(4) Where a party raises an issue for the first time on appeal, this Court reviews only for plain error.[5] "Under the plain error standard of review, the error complained of must be so clearly prejudicial to substantial rights as to jeopardize the fairness and integrity of the trial process."[6] This Court will reverse for plain error only where there are "material defects which are apparent on the face of the record; which are basic, serious and fundamental in their character, and which clearly deprive an accused of a substantial right, or which clearly show manifest injustice."[7]

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[1] App. to Opening Br. 9 ("A__" hereafter).
[2] *Id.*
[3] Opening Br. 5.
[4] *Id.*; Answering Br. 7.
[5] Del. Supr. Ct. R. 8; *Wainright v. State*, 504 A.2d 1096, 1100 (Del. 1986).
[6] *Wainright*, 504 A.2d at 1100.
[7] *Id.*

(5) Griffin argues that the trial judge committed plain error when he failed to *sua sponte* instruct the jury on the justification of self-defense as to Manslaughter EED.[8] Although the judge instructed the jury on self-defense as an affirmative defense to First Degree Murder, Griffin contends that the judge should have provided an additional self-defense instruction as to the Manslaughter EED charge.[9] Under Griffin's theory, including a second self-defense instruction for Manslaughter EED would have materially altered the jury's deliberations, and its omission was "clearly prejudicial to [Griffin's] substantial rights and jeopardized the fairness and integrity of the trial process."[10] Thus, Griffin claims that this Court should reverse and remand Griffin's convictions relating to the Manslaughter EED charge because the judge's failure to issue the second instruction constituted plain error.[11]

(6) Griffin's fundamental claim is that "the lower court did not instruct the jury on justification/self-defense as a defense to Manslaughter."[12] The State contends that "[u]nder the party autonomy rule,[13] . . . the Superior Court was neither

[8] Opening Br. 3.
[9] *Id.* at 17.
[10] *Id.* at 24.
[11] *Id.* at 17, 25.
[12] *Id.* at 17.
[13] Under the party autonomy rule, "the burden is initially on the parties, rather than the trial judge, to determine whether an instruction on a lesser-included offense should be considered as an option for the jury. The trial judge should not give an instruction on an uncharged lesser offense if neither side requests such an instruction because to do so would interfere with the trial strategies of the parties." *State v. Bower*, 971 A.2d 102, 107 (Del. 2009).

permitted nor required to give a second justification instruction as it applied to manslaughter when Griffin did not request such an instruction."[14] A careful review of the Superior Court's instructions leads us to conclude that the instruction was not required.

(7) After instructing the jury on First Degree Murder, the trial judge turned to the justification defense, commonly known as self-defense:

> Now, I want to talk about self-defense. The defendant has asserted the defense against the charge of Murder First Degree that he was justified in using force in self-defense. This defense is available if the defendant believed, in the circumstances as they occurred, that the force used was immediately necessary to protect the defendant against the use of unlawful force by another person. . . .
>
> If after considering all the evidence tending to support this defense, you find that the evidence raises a reasonable doubt in your mind about the defendant's guilt, you must find the defendant not guilty of the crime. ***You must consider evidence of this defense along with all the other evidence in determining whether the State has satisfied its burden of proving the defendant's guilt beyond a reasonable doubt. If you have a reasonable doubt as to any element of the defense, you must find the defendant not guilty.***[15]

(8) Thus, as instructed, if the jury determined that Griffin acted in self-defense, it was to return a verdict of "not guilty" and refrain from considering the lesser-included offense of Manslaughter EED. Neither party disputes the propriety

[14] Answering Br. 7.
[15] A251-52 (emphasis added).

of this instruction. Having told the jury what it was to do if it accepted Griffin's self-defense argument, the Court then explained to the jury what it was to do in the event that it rejected that argument:

> In this circumstance, if you're unable to reach a unanimous verdict on the charge of Murder in the First Degree, you may then consider a lesser-included offense of Manslaughter – Extreme Emotional Distress.
>
> Manslaughter – Extreme Emotional Distress says, in this case, if you conclude beyond a reasonable doubt that the defendant intentionally caused Mr. Mangrum's death, ***but he was not justified by self-defense, as I've just defined it***, you should next consider whether the defendant intentionally caused the death while under the influence of extreme emotional distress.[16]

(9) As is clear in the above transcript, the trial judge instructed the jury that it could consider the lesser-included offense of Manslaughter EED only if Griffin "was not justified by self-defense."[17] The instruction's plain language denotes that the jury could not turn to Manslaughter EED unless it first considered, and rejected, Griffin's self-defense argument.[18] Stated differently, there was no need to include an additional self-defense instruction as to the Manslaughter EED charge because the jury could not consider the Manslaughter EED charge if it accepted that the killing was justified by self-defense.

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[16] A252 (emphasis added).
[17] *Id.*
[18] *Id.*

(10) Not only did the trial judge here commit no plain error when issuing jury instructions, he committed no error at all. "A trial court's jury charge will not serve as grounds for reversible error if it is 'reasonably informative and not misleading, judged by common practices and standards of verbal communication.'"[19] The Court reverses a jury charge only if the instruction "undermined . . . the jury's ability to 'intelligently perform its duty in returning a verdict.'"[20]

(11) The jury instructions in this case were informative, direct, and unambiguous. The instructions correctly stated the law and made clear that the jury could not consider the Manslaughter EED charge unless the jury first rejected the self-defense justification. Thus, the Superior Court did not commit plain error, and Griffin's argument on appeal fails.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Tamika R. Montgomery-Reeves
Justice

[19] *Flamer v. State*, 490 A.2d 104, 128 (Del. 1983) (quoting *Baker v. Reid*, 57 A.2d 103, 109 (Del. 1947)).
[20] *Newman v. Swetland*, 338 A.2d 560, 562 (Del. 1975) (quoting *Storey v. Castner*, 314 A.2d 187, 194 (Del. 1973)).